

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
RISEANDSHINE CORPORATION,

Plaintiff,

-v-

PEPSICO INC.,

Defendant.

CIVIL ACTION NO.: 21 Civ. 6324 (LGS) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

Before the Court is the parties' joint letter regarding: (i) the status of all remaining fact witness depositions, including their disputes as to two of those depositions; (ii) the parties' disputes concerning the topics for their Fed. R. Civ. P. 30(b)(6) witness depositions (the "30(b)(6) Disputes"); and (iii) the expert discovery schedule. (ECF No. 210 (the "Joint Letter")). Having reviewed the Joint Letter, the Court orders as follows:

1. The fact depositions to which the parties have agreed shall proceed according to the schedule set forth in the Joint Letter (see ECF No. 210 at 2);
2. The deposition of Jennifer Tousignant shall take place on **May 4, 2022**;
3. Plaintiff's request to depose Ryan Collis is GRANTED IN PART and DENIED IN PART. Plaintiff may depose Mr. Collis, but his deposition shall be limited to two hours. This ruling is without prejudice to Plaintiff's request, on a showing of good cause, to continue the deposition. The parties shall promptly meet and confer to agree on a date for Mr. Collis' deposition that reasonably accommodates his personal and work schedules;
4. The Court will rule on the 30(b)(6) Disputes in due course and by separate order; and

5. The parties' requested extension of the expert discovery deadline is GRANTED, and their proposed interim deadlines are ADOPTED as follows:

- a. Round 1 – By **May 20, 2022**, the parties shall serve opening expert reports on issues for which each party carries the burden of proof (i.e., Rise serves its expert damages report and disgorgement revenue report and liability-related reports (including its confusion surveys), and PepsiCo serves its disgorgement cost report and reports on its affirmative defenses (acquiescence and estoppel, unclean hands, trademark misuse, and abandonment)).
- b. Round 2 – By **June 10, 2022**, the parties shall serve opening expert reports on issues for which each party does not carry the burden of proof, (i.e., PepsiCo serves its no-confusion surveys), and the parties serve rebuttal expert reports to each party's Round 1 opening expert reports.
- c. Round 3 – By **July 1, 2022**: The parties shall serve rebuttal expert reports to those opening reports provided in Round 2, provided that the parties agree that new surveys are not to be submitted in Round 3.
- d. Expert depositions shall take place between **July 5 and July 22, 2022**.
- e. By **July 29, 2022**, the parties shall file a joint letter certifying the completion of expert discovery.

Dated: New York, New York
March 28, 2022

SO ORDERED.



SARAH L. CAVE
United States Magistrate Judge